



California Fair Political Practices Commission

October 4, 1985

Vincent A. Muzzi
1766 El Camino Real, Suite C
Burlingame, CA 94010

Re: Your Request for Assistance,
Our File No. A-85-189

Dear Mr. Muzzi:

This letter is sent in response to your request for advice and information on the Political Reform Act.^{1/} You are considering running for the San Mateo County Board of Supervisors, and you are concerned about potential conflicts of interest based upon your ownership of land within the county. You are specifically concerned about decisions concerning the Planned Agricultural District ("PAD") in which you have direct and indirect interests in 500 acres of land. Since you are not yet a public official and thus there are no specific decisions pending, I cannot give you advice based on Section 83114(b). However, I hope the following general information and the enclosed materials will assist you in your decisions.

As you apparently know, a public official is prohibited from making, participating in, or otherwise attempting to influence a governmental decision in which he has a financial interest in the outcome. Section 87100. Section 87103 provides that an official has a financial interest in the outcome of a decision when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effects on the public generally, on any of the following:

- (a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

^{1/} The Political Reform Act is contained in Government Code Sections 81000-91015. All statutory references are to the Government Code.

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(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

Section 87103.

Accordingly, if you are elected to the Board of Supervisors, you should not participate in any decision which could have a material financial effect on the fair market value of your real property. Each decision must be analyzed based on all of the circumstances to determine whether an effect is reasonably foreseeable, whether the foreseeable effects are material, and whether the effects on your interests are distinguishable from the effects on the public generally or a significant segment thereof.

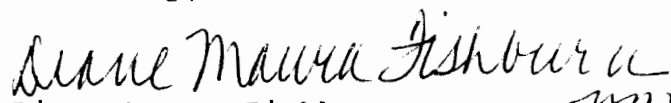
You specifically raised questions concerning the application of the "public generally" language in Section 87103. At this point, I cannot tell you whether all of the County decisions concerning the PAD would fall within the "public generally" exception to disqualification. I would need more facts on the PAD, and I would need to know the precise decision before the county in order to analyze whether the effects of the decision on your property were the same as the effects on a significant segment of the property owners in the county. I enclose a copy of the Commission's recent opinion involving Santa Clara County Supervisor Thomas Legan; the

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analysis in the opinion is illustrative of the type of analysis which would be applied to your situation. I also enclose copies of relevant advice letters and regulations.

Please feel free to contact me again if I can be of further assistance.

Sincerely,


Diane Maura Fishburn
Counsel
Legal Division

Enclosures

Vincent A. Muzzi
Attorney and Counselor at Law
1766 El Camino Real, Suite C
Burlingame, California 94010

SEP 3 4 17 PM '85

Telephone
415-692-5406

August 28, 1985

Ms. Barbara Milman
Fair Political Practices Commission
Legal Staff
P.O. Box 807
Sacramento, Ca. 95804

Re: Conflict of Interest Advice

Dear Ms. Milman:

It is my understanding that the Fair Political Practices Commission is authorized by law to provide advice letters and opinions on whether conflicts of interest exist under the Political Reform Act of 1974 as amended. I am presently evaluating whether I will run for Supervisor within the County of San Mateo and as a initial matter wish to receive your advice concerning the impact of my real property holdings within the County on my ability to participate in certain Board decisions. I have received conflicting lay opinion about the present status of California law in this area and request your clarifications. If I decide to run for office, I expect that a major issue in my campaign will be the Planned Agricultural District (PAD) zoning and the uses allowed thereunder.

Specifically, I own 400 acres m.o.l. within unincorporated San Mateo County. All of that land is within the Planned Agricultural District (PAD). The total unincorporated area is approximately 140,000 acres of which approximately 55,000 acres or 39% is within the PAD zoning. I am also the President of a corporation that owns 100 acres m.o.l. within the same District. Further, relatives of mine who are neither spouse nor children own land within that zoning district.

It has been my understanding that if the matter upon which I may be called to vote as a Supervisor would impact my land in the same fashion that it would impact other PAD lands that I would be permitted to fully participate. I am informed that because of the substantial acreage within PAD

that landowners would constitute a "significant segment of the public" with the meaning of the law. Further, it is my understanding that if a Board action would impact my land differently than others owning real property within the PAD that I would be required to disqualify myself. Although I would anticipate my disqualification if a relative's land were affected differently than other landholders, it is my understanding that the law itself does not require such disqualification.

What perhaps is most important is a correction of the assumption that some people have made that I would be disqualified from consideration of actions affecting the PAD simply because I own land within that district.

I hope that I have explained my concerns and the issue clearly. If you require additional information, I would be happy to provide it to you or your staff. I would appreciate an early written response.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, reading "Vincent A. Muzzi". The signature is written in dark ink and is positioned above the printed name.

Vincent A. Muzzi